1	EDMUND G. BROWN JR. Attorney General of California	
2	KAREN B. CHAPPELLE	
3	Supervising Deputy Attorney General State Bar No. 141267	
4	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013	
5	Telephone: (213) 897-8944 Facsimile: (213) 897-2804	
6	Attorneys for Complainant	
7	BEFORE THE BOARD OF REGISTERED NURSING	
8	DEPARTMENT OF CONSUMER AFFAIRS	
9	STATE OF CALIFORNIA	
10	In the Matter of the Accusation Against: Case No. 2010-618	
11	GEORGE OLIVER LOERA	
12	10730 Church Street, Apt. #382 Rancho Cucamonga, CA 91730 A C C U S A T I O N	
13		•
14	Registered Nurse License No. RN 533879	
15	Respondent.	
16		
17	Complainant alleges:	ė
18	PARTIES	
19	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her	-
20	official capacity as the Interim Executive Officer of the Board of Registered Nursing, Departm	.en
21	of Consumer Affairs.	
22	2. On or about July 15, 1997, the Board of Registered Nursing (Board) issued	
23	Registered Nurse License No. 533879 to George Oliver Loera (Respondent). The Registered	
24	Nurse License was in full force and effect at all times relevant to the charges brought herein an	ıd
25	will expire on March 31, 2011, unless renewed.	
26	<u>JURISDICTION</u>	
27	3. This Accusation is brought before the Board, under the authority of the following	
28	laws. All section references are to the Business and Professions Code unless otherwise indicat	ed.

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4.

Section 490 states:

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"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

STATUTORY PROVISIONS

- "(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.
- "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."
- 5. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
 - 6. Section 2761 states:
- "The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:
 - "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

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7. Section 2762 states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- "(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.
- "(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof."
- 8. Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

REGULATORY PROVISIONS

9. California Code of Regulations, title 16, section 1444, states, in pertinent part:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare."

COST RECOVERY

10. Section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of

the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially-Related Crime)

11. Respondent is subject to disciplinary action under section 2761, subdivisions (a) and (f) and section 490, as defined in California Code of Regulations, title 16, section 1444, in that on or about May 19, 2009, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while having a 0.08% or higher blood alcohol], in the criminal proceeding entitled *The People of the State of California v. George Oliver Loera* (Super. Ct. San Bernardino County, 2009, No. TWV900413). Respondent was placed on probation for three years, and fined. The circumstances surrounding the conviction are that on or about January 8, 2009, an on duty San Bernardino Sheriff's Officer was called to a non injury traffic collision involving Respondent as one of the driver's. Respondent was found to have a strong odor of an alcoholic beverage from his breath and person. Respondent also had red watery eyes with a horizontal gaze nystagmus present. Respondent was convicted of driving while having 0.08% and more, by weight, of alcohol in his blood.

SECOND CAUSE FOR DISCIPLINE

(Dangerous Use of Alcohol)

12. Respondent is subject to disciplinary action under section 2762, subdivision (b) and (c), in that Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to himself, and the public. Respondent drove a vehicle, while having 0.08% and more, by weight, of alcohol in his blood. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 11, as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Conviction Involving the Consumption of Alcohol)

13. Respondent is subject to disciplinary action under section 2761, subdivisions (a) and (f), as defined in section 2762, subdivision (c), in that on or about May 19, 2009, Respondent was

1	convicted of a crime involving the consumption of alcohol. Complainant refers to, and by this
2	reference incorporates, the allegations set forth above in paragraph 11, as though set forth fully.
3	PRAYER
4	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5	and that following the hearing, the Board issue a decision:
6	1. Revoking or suspending Registered Nurse License No. 533879, issued to Respondent
7	2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
8	enforcement of this case, pursuant to Business and Professions Code section 125.3; and
9	3. Taking such other and further action as deemed necessary and proper.
10	land land
11	DATED: SJOSJO Stave Bern Ex LOUISE R. BAILEY, M.ED., RN
12	Interim Executive Officer Board of Registered Nursing
13	Department of Consumer Affairs State of California
14	Complainant
15	LA2010600175 accusation.rtf
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